

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

Crl. Revision No.1179 of 2007
Date of decision: July 20, 2007.

Amarjit Singh

...Petitioner(s)

v.

State of Haryana

...Respondent(s)

CORAM:HON'BLE MR. JUSTICE SURYA KANT

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest.

Present: Shri Naveen Chopra, Advocate for the petitioner.

ORDER

Surya Kant, J. - This revision petition is directed against the judgment and order dated 24th March, 2005 passed by the learned Judicial Magistrate First Class, Charkhi Dadri holding the petitioner guilty of offence under section 279, 337 and 304-A IPC and convicted him to undergo RI for a period of two years and to pay a fine of Rs.3,000/- for the offence under section 304-A IPC, RI for a period of six months along with fine of Rs.500/- under section 279 IPC and RI for a period of six months along with fine of Rs.500/- under section 337 IPC, though the substantive sentences were directed to run concurrently, as also against the judgment dated 8th June, 2007 passed by the learned Additional Sessions Judge (Fast Track), Bhiwani whereby the petitioner's appeal against the above stated order of conviction and sentence, has been upheld.

As per the prosecution case, the injured complainant Savitri Devi along with her two brothers, namely Satbir and Jai Singh was coming

to her matrimonial home in village Goripur in a tempo on 28.8.1997 and when they reached village Paintawas, a truck bearing registration No.HRF-3752, which was being driven in a rash and negligent manner, came from Bhiwani side and struck against the tempo as a result of which the occupants of the tempo sustained injuries. On the way to government hospital, Charkhi Dadri, the complainant's brother Satbir succumbed to his injuries.

The tempo and the offending truck were taken into possession vide separate memos and got mechanically examined. The prosecution examined as many as 9 witnesses and tendered certain documents in evidence to substantiate the allegations. The petitioner in his statement under section 313 Cr.P.C., however, pleaded innocence though no defence evidence was led by him.

On a consideration of the statements of the prosecution witnesses, especially the injured and the eye witnesses, both the courts have concurrently held that the petitioner is guilty of driving the offending truck in a rash and negligent manner. He has, accordingly, been convicted and sentenced.

Aggrieved, the petitioner has approached this court.

I have heard Learned Counsel for the Petitioner and perused both the judgments as also the statements of certain material witnesses, which have been placed on record.

As is apparent from the contentions raised on behalf of the petitioner before the courts below, the petitioner's stand has been quite inconsistent. Firstly, having fled from the scene, the petitioner wanted to take full advantage thereof by suggesting that the evidence on record does not prove that he was the driver of the offending truck. However, before the appellate court, the petitioner appears to have taken the plea that there is no evidence on record to suggest that the truck was being driven by him in a rash and negligent manner and/or that he caused the accident in question. Reference has been made to the statement of PW3 (Savitri Devi), who has stated that on account of the accident, she remained unconscious for a period 2-3 days. On this premise, it is contended that identity of the petitioner, either as the driver of the truck or that he was driving the same in

a rash and negligent manner, has not been proved. The same contention has been raised before this court as well.

As rightly noticed by the learned appellate court, the moot question which arises for determination is as to whether the accident, which admittedly took place on 28.8.1997 in the area of village Paintawas, was caused due to rash and negligent driving of truck No.HRF-3752 by the petitioner or not.

If one reads the total sum of statement of PW1 (Jai Singh) and Savitri Devi (PW3), who are eye witnesses to the accident and suffered injuries in the same, there can be no other conclusion but to hold that the accident was caused due to rash and negligent driving of the truck driver. No part of the negligence is attributable to the tempo driver. The statements of the eye witnesses are further substantiated by the deposition of Anand (PW8) who was driving the ill-fated tempo. There is yet another independent witness, Bakhtawar (PW9), who was grazing his buffaloes in the adjoining field and had witnessed the accident very closely. Both the witnesses have identified the petitioner to be the driver of the delinquent truck.

The statements of Jai Singh (PW1), Savitri Devi (PW3), cannot be brushed aside merely because they are brother and sister of deceased Satbir and are, thus, sought to be termed as interested witnesses. The fact that Savitri Devi suffered injuries in the accident has been duly proved from the medico-legal report, therefore, presence of both the witnesses cannot be doubted at all.

The parameters of interference by revisional court in the concurrent findings of fact are well known. Unless such findings are perverse and/or based upon misreading of the evidence on record, or are so inconsistent with the admitted facts on record that the same cannot be reconciled, then only interference in such findings is warranted. That being not the case here, I am of the considered view that no interference in the impugned orders passed by the courts below is called for.

Similarly, the plea taken on behalf of the petitioner regarding reduction in sentence is also devoid of merit. Now-a-days, rash and negligent driving, especially by the drivers of the heavy vehicles, is hall-

mark of the busy roads. Innocent lives are taken away every day and many a times of the sole bread earners of the families. The miseries of the victims' families are such, which cannot be explained in words. In fact, the legislature itself has provided too lenient a sentence for the offences under section 304-A IPC that any further leniency by the courts would encourage the road ragers. Consequently, I do not find any merit in this contention as well.

Dismissed.

July 20, 2007.
kadyan

[**Surya Kant**]
Judge